



ORDINANCE NO. 2194-22

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT—  
KIMLEY-HORN

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Illinois, that the Mayor and Village Clerk be, and the same are, are hereby authorized to execute a certain Agreement with Kimley-Horn, in substantially the form attached hereto as Exhibit "A", and, by this reference, made a part hereof.

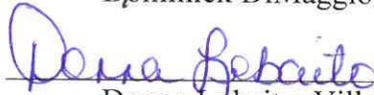
The foregoing Ordinance was adopted by a roll call vote as follows:

AYES: Kaiser, David, McCortley, Lychee, Bauer

NAYS: 0

ABSENT AND NOT VOTING: Riese

APPROVED:   
Dominick DiMaggio, Mayor

ATTEST:   
Donna Lobaito, Village Clerk

ADOPTED: September 26, 2022

APPROVED: September 27, 2022

# Kimley»Horn

September 16, 2022

Pamela Newton  
Chief Operating Officer  
Village of Hawthorn Woods  
2 Lagoon Drive  
Hawthorn Woods, IL 60047

**Re: Professional Services Agreement  
Village Gateway Monument Signage Design**

Dear Ms. Newton:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the Village of Hawthorn Woods, Illinois ("Client") for preparing gateway monument signage designs for the Village.

## **SCOPE OF SERVICES**

Kimley-Horn understands that the Village of Hawthorn Woods would like to develop unique, attractive gateway monuments signs that showcase the Village's "Rural By Design" character. These signs would be located at major entry points into the Village and highlight the character of the Village through their design and natural materials.

Kimley-Horn will provide the services specifically set forth below.

### **TASK 1 - EVALUATION & DESIGN DEVELOPMENT**

The first task is the evaluation of existing opportunities and constraints related to Hawthorn Woods' community gateway signage. This includes reviewing the existing Village logo and graphics standards, other complementary materials, and key entry points into the Village.

#### **Project Kick-off (Meeting #1)**

Kimley-Horn will conduct an in-person project start meeting with Village Staff to review the following:

- Project objectives
- Village character
- Current and planned Village branding and identity, including logos, colors and materials
- Contemplated signage locations, including visibility, constraints and opportunities
- Village's current sign codes and regulations

Kimley-Horn will also gather any GIS or electronic base maps provided by the Client.

Kimley-Horn will conduct in-field analysis and photograph conditions of the key Village entrances and main travel routes into and through the Village.

Kimley-Horn will develop up to three (3) concepts for the gateway monument signs. One (1) elevation drawing will be created for each concept to convey the overall design. An additional plan view or perspective sketch will be created for each concept to communicate the character of the signage options, as well as the potential massing/placement of gateways signs at the recommended location. Order-of-magnitude cost estimates will be prepared for each sign concept.

### **Staff Review (Meeting #2)**

Conduct a review meeting with Village staff to review the conceptual level sign systems and potential costs and collect input on a preferred design direction. Kimley-Horn will make one (1) round of refinements or revisions based on feedback.

### **Photo-simulation Development & Review**

Prior to developing the Design Intent Drawings and Standards of the preferred design, Kimley-Horn will prepare a photo-simulation of the preferred design set into a photo of existing conditions. This image will help final evaluation of sign size, text size, mounting height, readability and other factors. Kimley-Horn will provide these graphics to staff to review and comment and conduct a follow-up conference call to discuss.

### **TASK 2 – SIGN DESIGN & STANDARDS**

The second task includes the development and refinement of a preferred sign design and the preparation of Design Intent Drawings & Standards that can be used in final Village Board review, budgeting, and competitively bidding of the sign.

Based on input received from the review of the photo-simulation, Kimley-Horn will refine the preferred sign design. Kimley-Horn will draft the Design Intent Drawings and Standards document that will provide:

- Specific dimensions
- Letter heights
- Material recommendations
- Suggested mounting and bracketing (where applicable)
- Typeface/color specifications
- Foundation and installation details
- Lighting

This document will, when finalized, can act as the bid documents for the gateway monument sign package. Order-of-magnitude costs for the preferred designs will be updated at this point. The draft document will be submitted to the Client for review.

### **Staff Review (Meeting #3)**

Conduct a meeting with Village Staff to review the Design Intent Drawings and estimated costs. Kimley-Horn will make one (1) set of revisions based on feedback from Staff prior to the next Village Board presentation.

### **Village Board Presentation (Meeting #4)**

Present the final draft of the Design Intent Drawings and Standards document to the Village Board for consideration of formal adoption. Make one (1) set of revisions as necessary following the meeting based on comments from Board.

Additional meetings or revisions beyond those listed above, major site plan changes, additional photo-simulations, and/or bid assistance will be completed as Additional Services.

### **ADDITIONAL SERVICES**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Landscape Design
- Construction Documents
- Estimate of Probable Construction Costs
- Bid Assistance
- Preliminary and Final Engineering Design Services
- Environmental Engineering Services
- Geotechnical Engineering Services
- Structural Engineering Services
- Topographic or property survey

### **INFORMATION PROVIDED BY CLIENT**

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

1. Full access to the site
2. Executed copy of this Agreement

## FEE AND EXPENSES

Kimley-Horn will perform the services in Tasks 1 and 2 for the total lump sum fee below. Individual task amounts are informational only. In addition to the lump sum labor fee, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. All permitting, application, and similar project fees will be paid directly by the Client.

Task	Task Description	Fee	Fee Type
1.	Evaluation & Design Development	\$6,500	Lump Sum
2.	Sign Design & Standards	\$5,000	Lump Sum
	<b>Total (w/o expenses)</b>	<b>\$11,500</b>	<b>Lump Sum</b>

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

## CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to Village of Hawthorn Woods, Illinois

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

\_\_\_\_\_ Please email all invoices to \_\_\_\_\_

\_\_\_\_\_ Please copy \_\_\_\_\_

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Daniel Grove, PLA, LEED AP  
Senior Project Manager



Andrew N. Heinen, P.E.  
Vice President

Attachments: Standard Provisions

Agreed to this 26th day of September, 2022

**VILLAGE OF HAWTHORN WOODS, ILLINOIS**  
**A Municipality**

SIGNED: 

PRINTED NAME: Dominick DiMaggio

TITLE: Mayor

DATE: 9/27/22

Client's Federal Tax ID: \_\_\_\_\_

Client's Business License No.: \_\_\_\_\_

Client's Street Address: \_\_\_\_\_

Attachment – Request for Information  
Attachment – Standard Provisions

**KIMLEY-HORN AND ASSOCIATES, INC.**

**STANDARD PROVISIONS (WITH AGREED MODIFICATIONS)**

- 1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
  - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
  - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
  - c. Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
  - d. Arrange for access to the site and other property as required for the Consultant to provide its services.
  - e. Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
  - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
  - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
  - h. Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Consultant as follows:
  - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
  - b. If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
  - c. If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
  - d. The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an

electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

- 6) **Intellectual Property.** Consultant may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Consultant or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Consultant and its affiliates.
- 7) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination.
- 9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.
- 10) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 12) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.
- 13) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 14) **Construction Phase Services.**
  - a. If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
  - b. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

- c. The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.
- 15) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 16) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.
- 17) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. If Client requires Consultant to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Consultant or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.